

File

BEFORE THE DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE APPLICATION)	
FOR EXTENSION OF TIME ON)	
BENEFICIAL WATER USE PERMIT)	FINAL ORDER
NOS. 27941-s40A AND 50642-s40A)	
BY ZINNE BROTHERS)	

* * * * *

On May 18, 1988, a Proposal for Decision for Application for Extension of Time for Beneficial Water Use Permit No. 27941-s40A and a Proposal for Decision for Application for Extension of Time for Beneficial Water Use Permit No. 50642-s40A were entered. Both Proposals recommended that the respective Applications for Extension of Time be denied. Applicant Alvin W. Zinne for Zinne Brothers filed Exceptions to both Proposals for Decision and requested an oral argument be held on each pursuant to Mont. Code Ann. § 2-4-621(1). An oral argument hearing was held before the Assistant Administrator of the Water Resources Division on August 23, 1988, at Harlowton, Montana. Present at the hearing were Alvin W. Zinne for the Permittee Zinne Brothers and Rueben C. Pitsch, Objector. This Final Order will address both Proposals for Decision and the Exceptions filed for each as they contain substantially the same issues.

In reviewing the Proposals for Decision in this matter, the Administrative Procedure Act provides that the Findings of Fact of the Hearings Examiner cannot be modified unless:

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The agency first determines from a review of the complete record . . . that the findings were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law.

The Examiner's findings can only be reversed if they are clearly erroneous. See generally, Billings v. Billings Firefighters Local No. 521, 200 Mont. 421 (1982).

In order to obtain an extension of the time limit specified in a permit for commencement of the appropriation works, completion of construction, and actual application of the water to the proposed beneficial use, a permittee must show the Department of Natural Resources and Conservation (Department or DNRC) good cause why an extension should be given. Mont. Code Ann. § 85-2-312(3).

In this matter, the Permittee requests an Extension of Time on the basis that he was unable to perfect his permit due to factors beyond his control. Specifically, Permittee claims that because of low flow years and misappropriation by other users there has not been water of sufficient quantity or quality to justify commencement or completion of the permitted development. Permittee also contends that uncertainty created by the ongoing adjudication is sufficient good cause to grant the requested Extension of Time.

After review of the entire record, including the Proposals for Decision, the Exceptions filed to the Proposals, and the Oral Argument on the Exceptions, I hereby accept and adopt the Proposal for Decision in each case.

The Exceptions filed by Mr. Zinne raised the issue of sufficiency of flow of adequate quality in Big Coulee Creek to justify commencement or completion of the appropriation under Permits No. 27941-s40A or 50642-s40A since their issuance. These issues had been raised in the initial hearing herein and were addressed by the Hearings Examiner in the Proposal for Decision for each permit. Proposals for Decision, Finding of Fact No. 8. Permittee alleges in his Exceptions to the Proposals for Decision that DNRC gave more weight to the testimony of the Objectors and the DNRC Water Rights Specialist without any actual proof of flow measurements or water quality, during periods they contend water was available in sufficient quantity and quality.

In reviewing the record, testimony was given by Mr. Pitsch and Mr. Shifley that adequate quantities of water were available during periods after the permits were issued for the Permittee to appropriate water. Proposal for Decision, Finding of Fact No. 8. Mr. Zinne points out in his Exceptions that Mr. Pitsch did not have 30 years experience irrigating from Big Coulee Creek, but first began irrigating from Big Coulee Creek in 1976. Mr. Pitsch agreed at the oral argument that he has had 30 years experience in irrigation but not necessarily from Big Coulee Creek. The record of the hearing does indicate that Mr. Pitsch's 30 years of experience were not all on Big Coulee Creek. Such a minor error would not change the weight given to Mr. Pitsch's testimony, and does not lead to an erroneous decision.

Mr. Pitsch's and Mr. Shifley's testimony was corroborated by Mr. Schmidt of the DNRC Water Rights Field Office in Lewistown.

Mr. Schmidt was on the Creek concerning a different matter and observed that Big Coulee Creek was flowing full. Mr. Schmidt was not requested to take flow measurements. Mr. Zinne contends that this testimony is insufficient to show water was available. However, testimony from experienced ranchers who also irrigate out of the source of supply and a Department specialist in the water resources field is competent substantial credible evidence on which the Hearing Examiner reasonably based her findings when Zinne Brothers themselves offered no flow records.

In addition to natural causes, the Permittee contends that there is an inadequate quantity of water due to misappropriation of water on Big Coulee Creek by junior appropriators. Mr. Zinne asserts that complaints of misappropriation are on record with the DNRC. Therefore, there was not a sufficient quantity of water available to warrant development of the project, and an Extension of Time should be granted.

Montana water use is governed by the law of prior appropriation - first in time is first in right. A permit issued by the DNRC allows the permittee to proceed with the appropriation of water and to take their place on the ladder of priorities. The permittee is entitled to seek enforcement of the priority system. The Hearings Examiner was correct in concluding that simply to say that the priority scheme had not been enforced in the past is not good cause to grant an Extension of Time. Proposals for Decision, Conclusion of Law No. 4. Lack of enforcement is not a factor beyond the Permittee's control.

Permittee also contends that insufficient water was available because water in the creek was of such poor quality that it could not be used. See Proposals for Decision, Finding of Fact No. 9. Permittee asserts that the Objectors produced no water sample to show that water was of sufficient quality to use for irrigation. Mr. Zinne stated in oral argument that the Department of Health and Environmental Sciences has done a water sampling of Big Coulee Creek that DNRC should have used in making a determination on water quality. Mr. Zinne also stated that there is land within one-half mile of the proposed place of use that is very saline and producing very little grain, some of which will grow only adaptable grass and no alfalfa.

It is incumbent on the Permittee to show good cause for an Extension of Time. Evidence must be submitted at the hearing stage. No new evidence or testimony can be considered at the oral argument stage of these proceedings. Mont. Admin. R. 36.12.229(2)(a). Evidence which was not introduced at the hearing or brought to the Hearing Examiner's attention at a meaningful time cannot be considered. New evidence on surrounding areas and water quality reports is not considered here.

The record reflects that when the water is low Big Coulee Creek has water quality problems. However, Mr. Pitsch and Mr. Shifley testified that water of sufficient quality for irrigation was available after the permits were issued. Both are experienced irrigators and irrigate for themselves out of Big Coulee Creek. There is substantial credible evidence on the record to support the Hearings Examiner's findings.

Finally, the Permittee contends that resolution of the ongoing adjudication is necessary in order to develop due to the substantial cost of installing the irrigation system. See Proposals for Decision, Finding of Fact No. 10; Conclusion of Law No. 4. Mr. Zinne asserts that upstream claims need to be settled in order to justify development because if these claims are upheld as filed there will be no water available.

As the Proposal for Decision correctly points out:

There is always a risk in installing a water system and attempting to perfect a water right. If adequate water was always available for all uses, a priority system would not be needed. It is up to each individual appropriator to decide if the risk is worth the investment of time and money he will have to make. If he proceeds to complete his project with reasonable diligence, investing his time and money, he is entitled to reap the benefits of his efforts by retaining his Permit and its priority. If he is unwilling to proceed toward perfection of his Permit, then an appropriator must "step out" of the line of priorities, and return when and if he feels secure in proceeding with the proposed project. To allow an appropriator to do otherwise--that is, to retain a priority date for some possible future development which may or may not occur--penalizes other water users and potential water users who would be willing to take the risk and develop the water for immediate beneficial use.

Proposal for Decision, Permit No. 27941-s40A, pgs. 10-11.

The Hearing Examiner properly weighed the testimony and evidence presented in this matter. There is substantial and credible evidence to support each of the Hearing Examiner's Findings and Conclusions. An engineering study done in 1984 (prior to issuance of the permit), without more, does not establish due diligence. Permittee did not prove that they were unable to perfect the permit due to factors beyond their control. And the fact that the adjudication is ongoing does not

constitute good cause for granting an Extension of Time.

Good cause was not shown for an Extension of Time for completion of the appropriation under Permits No. 27941-s40A and 50642-s40A, therefore, the Applications for Extension of Time for these permits were properly denied. Mont. Code Ann. § 85-2-312. All the Findings of Fact and Conclusions of Law contained in the Proposals for Decision for Permit Nos. 27941-s40A and 50642-s40A are incorporated in this Final Order by reference. Based upon the Findings and Conclusions, all files and records herein, and the Exceptions filed and the oral argument hearing, the Department of Natural Resources and Conservation makes the following:

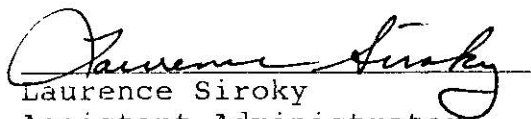
O R D E R

Applications for Extension of Time on Beneficial Water Use Permit Nos. 27941-s40A and 50642-s40A issued to Zinne Brothers are denied.

N O T I C E

The Department's Final Order may be appealed in accordance with Mont. Code Ann. § 2-4-702 of the Montana Administrative Procedure Act by filing a petition in the appropriate court within thirty (30) days after service of this Final Order.

DONE this 12 day of December, 1988.


Laurence Siroky
Assistant Administrator
Department of Natural
Resources and Conservation
1520 East Sixth Ave.
Helena, Montana 59620
(406) 444-6816

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Final Order was duly served upon all parties of record at their address or addresses this 12th day of December, 1988, as follows:

Zinne Brothers
c/o Alvin W. Zinne
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Ryegate, Montana 59074

Richard I. Shifley
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Faye Bergan
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Lewistown, Montana 59457


Irene V. LaBare
Legal Secretary

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BEFORE THE DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE APPLICATION)
FOR EXTENSION OF TIME ON BENEFICIAL) PROPOSAL FOR DECISION
WATER USE PERMIT NO. 27941-s40A)
GRANTED TO ZINNE BROS.)

* * * * *

Pursuant to the Montana Water Use Act and to the contested case provisions of the Montana Administrative Procedure Act, a hearing was held in the above-entitled matter on April 22, 1988 in Harlowtown, Montana.

Permittee Zinne Brothers appeared at the hearing through Alvin Zinne.

Objector Reuben Pitsch appeared at the hearing in person.

Objector Richard Shifley appeared at the hearing in person.

Sylvio Rodriguez, Field Manager of the Lewistown Water Rights Bureau Field Office, and David Schmidt, Water Rights Specialist with the same office, attended the hearing in this matter.

EXHIBITS

No exhibits were offered for inclusion in the record in this matter.

The Department file on the Application for Extension, which contains the originals of the Application and the Objections, photocopies of the Permit and of the Notice of Action on Application for Extension of Time, correspondence between the Department and the parties, and Department processing documents,

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was made available at the hearing for review by all parties. No party made objection to any part of the file. Therefore, the Department file in this matter is included in the record in its entirety.

The Hearing Examiner, having reviewed the record in this matter and being fully advised in the premises, does hereby make the following proposed Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. MCA §85-2-312(3) (1987) states, in relevant part: The department may, upon a showing of good cause, extend time limits specified in the permit for commencement of the appropriation works, completion of construction, and actual application of the water to the proposed beneficial use. All requests for extensions of time must be by affidavit and must be filed with the department prior to the expiration of the time limit specified in the permit or any previously authorized extension of time. The department may issue an order temporarily extending the time limit specified in the permit for 120 days or until the department has completed its action under this section, whichever is greater. Upon receipt of a proper request for extension of time, the department shall prepare a notice containing the facts pertinent to the request for extension of time and shall publish the notice in a newspaper of general circulation in the area of the source. The department may serve notice by first-class mail upon any public agency or other person the department determines may be interested in or affected by the request for extension of time. The department shall hold a hearing on the request for extension of time on its own motion or if requested by an interested party.

2. On August 26, 1985, Provisional Permit to Appropriate Water Right No. 27941-s40A was issued to Zinne Bros. with a

priority date of May 29, 1980. The Permit granted the Permittees the right to divert 1625 gallons per minute ("gpm") up to 81.00 acre-feet of water per year; 875 gpm up to 45.00 acre-feet for new flood irrigation on 45 acres, and 750 gpm up to 36.00 acre-feet for new sprinkler irrigation on 36 acres, all located in Section 19, Township 5 North, Range 20 East, Golden Valley County, Montana.

Under the terms of Permit No. 27941-s40A, the Permittees were required to have completed the permitted diversion and distribution works, and applied water to beneficial use as specified in the Permit, on or before December 1, 1987. The Permittees further were required to file the Notice of Completion of Water Development for their project on or before the same date, December 1, 1987.

3. On November 25, 1987, the Department of Natural Resources and Conservation (hereafter, the "Department") received an Application for Extension of Time for Permit No. 27941-s40A, requesting that the date of completion for the project authorized by the Permit be extended until June 30, 1990.

The reason given by the Permittees for requesting an extension was that there had not been adequate stream flow since the Permit was issued to allow for diversion and, further, that the quality of the water in the stream was poor at low flow stages. The Permittees stated, "Equipment will be installed whenever there is a promising assurance there will be adequate flow for a season's appropriation."

In response to the question on the Application which requests the Permittees to "describe what work has already been initiated toward perfecting the water right", and asks for copies of pertinent documentation, the Permittees responded, "Bid on a proposed wheel line attached. Bid dated October 10, 1984. For Permi (sic) # 27941-40A, Sec 19."

4. On November 30, 1987, the Department issued a Notice of Action on Application for Extension of Time, temporarily extending the time limit specified in Permit No. 27941-s40A for an additional 120 days, "or until the Department has completed its action on the request under Section 85-2-312, MCA, whichever is greater", in accordance with §85-2-312(3) (1987).

5. The pertinent portions of the Application were published in the Roundup Record Tribune, a newspaper of general circulation in the area of the source, on January 6, 1988. Additionally, the Department served notice by first-class mail on public agencies and individuals which the Department determined might be interested in or affected by the request for extension of time. (See File.)

6. The Department received timely objections to the Permittees' Application for Extension of Time from Reuben Pitsch and Richard Shifley. Mr. Pitsch requested that the Department hold a hearing in this matter. Therefore, pursuant to the provisions of MCA §85-2-312(3) (1987), the Department held a hearing on the Application.

7. Permittee Alvin Zinne testified that the Permittees have not purchased a diversion system, installed any diversion works, or appropriated water pursuant to Permit No. 27941-s40A. He

stated that the only action which the Permittees have taken so far is to have an estimate made of the equipment and expense involved in installing a quarter-mile wheel line to irrigate 40 acres of the proposed 81-acre place of use.

8. Permittee Zinne testified that, in his judgment, there has not been sufficient flow of adequate quality in Big Coulee Creek to warrant utilizing Permit No. 27941-s40A since its issuance.

Mr. Zinne's testimony was contradicted by Objectors Reuben Pitsch and Richard Shifley. Mr. Pitsch testified that, based on his long experience with Big Coulee Creek, there is a water availability problem on the creek at certain times; however, that there have been periods of time since the Permittees' Permit was granted when there was "ample water" to meet senior diversion requirements and allow the Permittees to appropriate. He cited the months of June and July, 1987 as one of the time periods when the Permittees could have diverted without affecting anyone.

Mr. Shifley confirmed Mr. Pitsch's testimony that there had been sufficient water in June and July of 1987 to allow the Permittees to appropriate. He stated that there was a good flow of water even as far as three or four miles downstream of the Permittees, which is where Mr. Shifley is located. Mr. Shifley stated that he has thirty years experience on Big Coulee Creek, and that in his estimate, there have been times in the years since the Permit was granted when there has been plenty of water in the creek if the Permittees wanted to appropriate.

David Schmidt, of the Lewistown Water Rights Bureau Field Office, was called upon to testify as to the flow of Big Coulee Creek at the time of his June 9, 1987 Field investigation of a complaint involving one of the Objectors. Mr. Schmidt testified that he had not taken measurements, but that the creek channel was full, with water running two to three feet deep.

9. On the question of water quality, the Permittee stated that the quality of water is poor when the creek flow is low, and that he would not irrigate.

Mr. Pitsch responded that people have used it during these times and their land is still producing. Mr. Shifley stated that there are times when the water is of good quality as well as sufficient quantity.

10. The Permittee alleged that there has been a 10-year history of misappropriation upstream, which has had a bearing on the fact that the Applicants have not utilized their Permit. He stated that there are times, due to weekends or other (unspecified) reasons, when there is a delay in enforcement of the priority system. When questioned as to whether he would ever feel comfortable in developing the Permit, Mr. Zinne replied that it would depend on the outcome of the adjudication process, since there will be no sense in installing a wheel line if the claimed rights on Big Coulee Creek are approved.

When asked what the Permittees would do if they were granted their requested extension until June 1990 and the Final Decree had not been issued by then, Mr. Zinne stated that they would "sit on" the Permit (request further extensions) until the adjudication has been completed. Once the adjudication is

complete, they would have a water right to use if the claims are not approved, and would install a diversion system whenever there was water available for a season's appropriation. (See Application.)

11. The Objectors allege that the Permittees have not proceeded with due diligence to complete their project and perfect their water right.

Reuben Pitsch testified that he has permits junior to the Permit in this matter, which he has developed. These permits would be subject to being called by the Permittee if they begin appropriating water pursuant to their Permits. He stated that the Permittees have had adequate time and water available to them to develop the Permit if they had attempted to do so, but that no effort has been made to complete their proposed project. Mr. Pitsch stated, pursuant to his written objection, that the Permittees' actions (or lack thereof) are contrary to the purposes of the water permit system, "which is to grant rights only for present actual use." (See Objection.)

Richard Shifley stated that he believes the Permittees have had plenty of time to put in their proposed system. He stated that he does not believe there are any problems such as financial difficulties that have kept the Permittees from developing their project, and that there have been times since the Permit was granted when there was enough water of good quality that the Permittees could have diverted if they had wanted to do so.

Based upon the foregoing Findings of Fact and upon the record in this matter, the Hearing Examiner makes the following:

PROPOSED CONCLUSIONS OF LAW

1. The Department has jurisdiction over the subject matter herein, and all the parties hereto.

2. The Department gave proper notice of the hearing, and all relative substantive and procedural requirements of law or rule have been fulfilled, therefore the matter was properly before the Hearing Examiner. (See Findings of Fact 1, 4, 5, and 6.)

3. The holder of a Beneficial Water Use Permit is required to make a showing of good cause why the Permit time limits should be extended before the Department can extend time limits specified in the Permit for commencement of the appropriation works, completion of construction, and actual application of the water to the proposed beneficial use. See MCA §85-2-312(3) (1987).

4. The Permittees have not proceeded with due diligence to develop the appropriation right granted to them in Permit No. 27941-40A.

The Permittees have not invested in any irrigation equipment or even commenced construction of the diversion works, let alone put their water right to beneficial use. Rather, testimony by Alvin Zinne clearly indicates that the Permittees do not have a present bona fide intent to put water to beneficial use, but are attempting to reserve water for possible future use, and retain the priority date which has been granted.

Under the Montana Water Use Act, the only entities which are entitled to reserve water for future use are the federal government, the state, or political subdivisions or agencies. See MCA §85-2-316. All other persons or entities are only entitled to the priority date of the permit issued to them, if they have proceeded to perfect the permit with "reasonable diligence."

Montana case law is replete with cases in which the courts have required an appropriator to show that he has diligently pursued perfection of his water right, before the right is granted a priority date as of the time the appropriation was initiated. Under pre-1973 water law, courts have granted a priority date as of the date of initiating the appropriation only on that portion of the water right which was completed with reasonable diligence. See 79 Ranch, Inc. v. Pitsch, 204 Mont. 426 (1983); Montana Department of Natural Resources and Conservation v. Intake Water Company, 171 Mont. 416 (1976); Holmstrom Land Co. v. Newlan Creek Water District, 185 Mont. 409 (1979).

The Montana Water Use Act has incorporated the requirement for proceeding with due diligence. A Permittee is entitled to a priority date as of the filing of his application (see MCA §85-2-401(2)); however, the appropriator is entitled to retain his priority date only if the terms of the permit are met. These terms include the time limits for "commencement of the appropriation works, completion of construction, and actual application of the water to the proposed beneficial use." MCA

§85-2-312(2). The Montana Water Use Act clearly contemplates that the result of not meeting the time limits shall be loss or modification of the permit and its attendant priority date. See MCA §85-2-314.

In the present matter, the Permittees have not made any attempt to begin the project for which they wish to retain the present Permit. The main basis for their failure to act, according to the Permittee's testimony, is that they do not wish to risk investing any money in a project they may or may not be able to utilize in the future, depending upon the outcome of the present adjudication, and whether the Permittees judge that "there is a promising assurance" that there will be adequate flow for a season. (See Application for Extension of Time.) However, this is not a sufficient basis for granting an extension of time which, by the Permittee's own admission, will not be used to even begin the project unless the adjudication is complete and the Permittees feel they will be assured of obtaining their full appropriation right.

There is always a risk in installing a water system and attempting to perfect a water right. If adequate water was always available for all uses, a priority system would not be needed. It is up to each individual appropriator to decide if the risk is worth the investment of time and money he will have to make. If he proceeds to complete his project with reasonable diligence, investing his time and money, he is entitled to reap the benefits of his efforts by retaining his Permit and its priority. If he is unwilling to proceed toward perfection of

his Permit, then an appropriator must "step out" of the line of priorities, and return when and if he feels secure in proceeding with the proposed project. To allow an appropriator to do otherwise--that is, to retain a priority date for some possible future development which may or may not occur--penalizes other water users and potential water users who would be willing to take the risk and develop the water for immediate beneficial use.

There is nothing in the statutory law or case law of Montana to support the idea that a Permittee should be allowed to retain a water right for which no work has been done, as against junior water users and potential water users. Such a holding would allow a Permittee to delegate the risks to other water users so that he may later reap the possible rewards of having obtained a Permit for which he himself has taken no risk and done no work.

See generally, In the Matter of the Proposed Revocation of Beneficial Water Use Permit No. 4516g-410 (Crumpled Horn), October 15, 1987 Final Order.

The Permittees have not shown by a preponderance of the evidence in the record that they have been unable to perfect their Permit due to physical factors beyond their control. The record indicates that water has been available for appropriation in Big Coulee Creek during at least some periods when the Permittees could have appropriated. (See Finding of Fact 8.) However, the Permittees have made no attempt to commence or complete their appropriation works, so that they would be able to divert water at such times as it might be available, nor does

the testimony show that they intend to construct and utilize the proposed appropriation works within the requested extension of time, should they be granted such an extension. See Findings of Fact 3, 10.

In the present matter, not only have the Permittees not proceeded with due diligence, but there is no assurance that they ever will proceed with their proposed project. To allow them to retain their priority date would contravene the intent, as well as the statutory requirements, of the Water Use Act.

5. The Permittees, having failed to show due diligence, have not shown good cause why an Extension of Time should be granted on Beneficial Water Use Permit No. 27941-s40A.

WHEREFORE, based upon the proposed Findings of Fact and Conclusions of Law, the Hearing Examiner makes the following:

PROPOSED ORDER

Application for Extension of Time on Beneficial Water Use Permit No. 27941-s40A issued to the Zinne Bros. is denied.

NOTICE

This proposal is a recommendation, not a final decision. All parties are urged to review carefully the terms of the proposed order, including the legal land descriptions. Any party adversely affected by the Proposal for Decision may file

exceptions thereto with the Hearing Examiner (1520 E. 6th Ave., Helena, MT 59620-2301); the exceptions must be filed within 20 days after the proposal is served upon the party. MCA §2-4-623.

Exceptions must specifically set forth the precise portions of the proposed decision to which exception is taken, the reason for the exception, and authorities upon which the exception relies. No final decision shall be made until after the expiration of the time period for filing exceptions, and the due consideration of any exceptions which have been timely filed.

Any adversely affected party has the right to present briefs and oral arguments pertaining to its exceptions before the Water Resources Division Administrator. A request for oral argument must be made in writing and be filed with the Hearing Examiner within 20 days after service of the proposal upon the party. MCA §2-4-621(1). Written requests for an oral argument must specifically set forth the party's exceptions to the proposed decision.

Oral arguments held pursuant to such a request normally will be scheduled for the locale where the contested case hearing in this matter was held. However, the party asking for oral argument may request a different location at the time the exception is filed.

Parties who attend oral argument are not entitled to introduce evidence, give additional testimony, offer additional exhibits, or introduce new witnesses. Rather, the parties will be limited to discussion of the evidence which already is present

in the record. Oral argument will be restricted to those issues which the parties have set forth in their written request for oral argument.

DONE this 18th day of May, 1988.

Peggy A. Elting
Peggy A. Elting, Hearing Examiner
Department of Natural Resources
and Conservation
1520 E. 6th Avenue
Helena, Montana 59620-2301
(406) 444 - 6612

CERTIFICATE OF SERVICE


This is to certify that a true and correct copy of the foregoing PROPOSAL FOR DECISION (Case No. P 27941-40A) was served by mail upon all parties of record at their address or addresses this 18th day of May, 1988 as follows:

Zinne Brothers
* Alvin W. Zinne
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Richard I. Shifley
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Sam Rodriguez
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(inter-departmental mail)


Sally Martinez
Secretary

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